

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA *ex rel.*  
Christian M. Heesch,**

**Plaintiff**

**v.**

**DIAGNOSTIC PHYSICIANS GROUP, P.C.;  
IMC-DIAGNOSTIC AND MEDICAL  
CLINIC, P.C.; IMC-NORTHSIDE CLINIC,  
P.C.; and INFIRMARY HEALTH SYSTEM,  
INC.,**

**Defendants**

**Case No. 1:11-cv-364-KD-B**

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**DEFENDANT DIAGNOSTIC PHYSICIANS GROUP, P.C.'S MOTION TO  
DISMISS THE CLAIMS ASSERTED AGAINST IT IN  
THE UNITED STATES' COMPLAINT IN INTERVENTION**

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Defendant Diagnostic Physicians Group, P.C. ("DPG") moves the Court under Federal Rules of Civil Procedure 9(b) and 12(b)(6) for a dismissal of all claims that the United States has asserted against DPG in the Complaint in Intervention in this action. As grounds in support of this motion, DPG adopts the authorities and matters contained in the accompanying brief in support and submits that all five counts asserted against DPG in the Complaint fail to state a claim upon which relief can be granted.

Dated: October 7, 2013.

/s/ David W. Proctor

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/s/ James B. Newman

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will serve the same electronically on all counsel and parties of record in this matter, including:

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